

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

CHRISTOPHER EBERLEIN,)

Case No. 1:19-mj-850 (CFH)

Defendant)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of October 25, 2019 in the county of Albany in the Northern District of New York the defendant violated:

Code Section
18 USC § 2252A(a)(B)(5)

Offense Description
Possession of child pornography

This criminal complaint is based on these facts:
See Attached Affidavit

☒ Continued on the attached sheet.



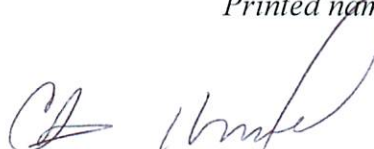
Complainant's signature

Brandon J. Hudson, FBI TFO

Printed name and title

Sworn to before me and signed in my presence.

Date: December 17, 2019

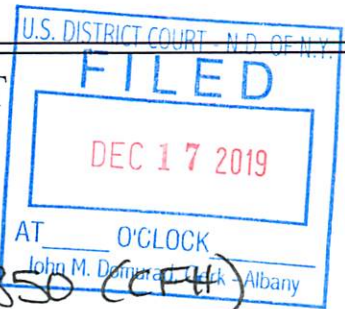


Judge's signature

City and State: Albany, New York

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title



Affidavit in Support of a Criminal Complaint

I, Brandon J. Hudson, being duly sworn, depose and state:

Introduction

1. I make this affidavit in support of a criminal complaint charging Christopher Eberlein (“Eberlein”) with knowingly possessing child pornography that has been transported using any means or facility of interstate or foreign commerce by any means, including by computer, in violation of Title 18 United States Code, Section 2252A(a)(5)(B).

2. I am an Investigator with the New York State Police and Task Force Officer with the Federal Bureau of Investigation (FBI). I have been so employed with the New York State Police since June 2004 and the FBI since February 2017. I am assigned to the FBI’s Albany Field Office. I have participated in investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections 2251, 2252 and 2252A. My duties include investigating criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography in violation of Title 18, United States Code, Sections 2252 and 2252(A). I have received extensive training in the area of investigating child sexual exploitation and have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media.

3. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, I am an officer of the United States who is empowered by law to conduct investigations of offenses enumerated in Title 18, United States Code, Section 2516(1). As a Task Force Officer, I am authorized to seek and execute federal arrest and search warrants for Title 18 criminal offenses.

4. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officers and FBI personnel, information gathered from the service of administrative subpoenas and responses to federal search warrants, a non-custodial interview of Eberlein, and my experience and training as a Task Force Officer with the FBI.

5. Because this affidavit is being submitted for the limited purpose of supporting a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Eberlein has violated Title 18, United States Code, Section 2252A(a)(5)(B) (possession of child pornography)

Basis for a Probable Cause Finding

6. On May 15, 2019 at 03:10:25 UTC, the National Center for Missing and Exploited Children (“NCMEC”) received a CyberTip from Oath Holdings, Inc., (“Oath Holdings”) formerly known as Yahoo! Holdings, Inc. (“Yahoo”) concerning possible child pornography Oath Holdings identified being uploaded to its servers. The report identifies and includes 823 images depicting child pornography that were uploaded to Yahoo on or about May 15, 2019 at 00:10:24 UTC by an account created in the name of David Sanders, email address: xxxxxxxdadoftwoyearold@yahoo.com, and Screen/User Name: PYSDRSJSNSBGH6UGHJN6PDU7XU-yahoo. The image files were provided to NCMEC by Yahoo. I have reviewed all of the images, a large majority (about 90%) of which depict child pornography and are available for the court’s inspection upon request. Four of the files are described as follows:

- a) The file: **image.854-1.jpeg** is a still image of an infant female, birth to eighteen months old. The child is laying on her back, completely naked with her legs spread. A man's penis is between the child's legs, and the child's torso and genitals appear to be covered in male ejaculate.
- b) The file: **image.713-1.jpeg** is a still image of a prepubescent female, approximately one to three years old. The child is sitting on a bed completely naked, with a pacifier in her mouth. An adult male is holding his penis to her vagina and she is holding it with her right hand.
- c) The file: **image.108-1.gif** is an image of a prepubescent female, approximately four to six years of age, with an adult male standing in front of her and inserting his penis in her mouth. The only area of the child shown is her face.
- d) The file: **image.999-1.jpeg** is a still image of a prepubescent female, approximately four to six years old. The child is laying on her back, with her shirt pulled up and is not wearing pants. The child's mouth, arms, and legs are bound by tape and rope. The focal point of the image is on the child's vagina and anus.

7. On May 15, 2019 at 03:58:55 UTC, NCMEC received a second CyberTip from Oath Holdings relating to 651 files that appear to contain child pornography that were uploaded to their servers on May 15, 2019 at 00:58:54 UTC by someone using the same Screen / Username referenced above. Your affiant has reviewed these files as well, and several, depict child pornography.

8. On May 17, 2019, an administrative subpoena was served to Oath Holdings, doing business as Yahoo, to provide information pertaining to Name: David Sanders, email address: xxxxxxxdadoftwoyearold@yahoo.com, Screen/User Name: PYSDRSJSNSBGH6UGHJN6PDU7XU-yahoo. Oath Holdings responded with several IP Addresses used to access the account. Said IP Addresses include the following IP Addresses that were used near the time the child pornography was uploaded: 2604:6000:1115:8aff:750e:79f4:8bcd:4d04 on May 11, 2019 at 09:31 UTC, and 24.29.53.21 on November 1, 2018 at 01:30 UTC, February 6, 2019 at 21:46 UTC, and May 8, 2019 at 21:26 UTC, as well as other unidentifiable IP Addresses.

9. On May 20, 2019, an administrative subpoena was served to Charter Communications to provide information pertaining to the identifiable Yahoo login IP Addresses in paragraph 8. Charter Communications identified the subscriber of both IP Addresses as Christopher Eberlein at an address in Albany, New York with phone: 518-650-XXXX. The response indicated that IP Address 24.29.53.21 was assigned to Christopher Eberlein at that address from December 25, 2017 through May 21, 2019 and IP Address 2604:6000:1115:8aff:750e:79f4:8bcd:4d04 was assigned to Christopher Eberlein at that address from May 9, 2019 through May 24, 2019, both inclusive of the date that the child pornography was uploaded to the Yahoo servers.

10. On July 9, 2019, an administrative subpoena was served to Oath Holdings, doing business as Yahoo, to refresh IP history for Name: David Sanders, email address: xxxxxxxdadoftwoyearold@yahoo.com, Screen/User Name: PYSDRSJSNSBGH6UGHJN6PDU7XU-yahoo. Oath holdings responded and provided an unverified phone number that was associated with the account of 518-650-XXXX. In response to an administrative subpoena, Charter Communications identified the subscriber of 518-650-XXXX as Eberlein at the Albany address with email address: aceXXX@aol.com

11. On October 22, 2019, United States Magistrate Judge Christian F. Hummel issued a search warrant authorizing the search of Eberlein's Albany residence and any computers and devices located during the search for evidence of violations of Title 18, United States Code, Section 2252A (distribution, receipt and possession child pornography). On October 25, 2019, FBI Special Agents and other law enforcement officers executed said search warrant.

12. During the execution of the search warrant, Eberlein, who was informed that he was not under arrest and who was not in custody, voluntarily participated in an interview in the

living room of his residence. Eberlein stated that he has been living at the address for approximately 20 years. He also stated that he is the sole owner and operator of the computers in the apartment, as his wife is “computer illiterate.” Eberlein did not admit to using the email address xxxxxxxdadoftwoyearold@yahoo.com, but admitted to using email address aceXXX@aol.com. Eberlein confirmed that he knows what child pornography is and understands that it is illegal to possess pornographic images of children.

13. During a forensic preview of an ASUS laptop computer seized from Eberlein’s residence, a text file containing login information (email address and password) for the email address: xxxxxxxdadoftwoyearold@yahoo.com was located on the device.

14. During a forensic preview of Eberlein’s computers at the residence, evidence was found that USB drives had been connected to the computers. When questioned about the location of his USB drives, Eberlein directed agents to a dresser drawer where USB thumb drives were located. A forensic preview of one of the USB thumb drives, a black and red SanDisk Cruzer 16GB, found a file titled “New Folder” containing ten images of child pornography. Below are descriptions of three of the files.

- a) The file: **1.jpg** is a still image of a prepubescent female, approximately six to eight years of age. The child is lying on her back wearing a sweater with hearts and no pants. The hand of an adult male is shown spreading the child’s vagina with his thumb and index finger.
- b) The file: **4jpg.jpg** is a still image of a prepubescent female, approximately five to seven years of age. The child is laying on her back, completely nude, and appears to be sleeping. The focal point of the image is of the child vagina, which appears to be covered in male ejaculate.
- c) The file: **FRFJN.gif** is a moving image of a prepubescent female, approximately four to six years of age. The female is lying face down on a table wearing only a shirt and underwear, and her hands are bound with rope under the table. The hand of an adult man pulls down the child’s underwear and rubs her genitals.

Preliminary forensic previews were completed on other devices seized from the residence and numerous images of child pornography were located in both deleted and undeleted space. The forensic analysis of all devices remains ongoing at this time.

15. On October 28, 2019, United States Magistrate Judge Christian F. Hummel issued a search warrant for the email account of xxxxxxxdadoftwoyearold@yahoo.com for evidence of violations of Title 18, United States Code, Sections 2252A(a)(2)(A) and (a)(5)(B) (distribution, receipt and possession of child pornography) that was executed on the same day. Oath Holdings responded with electronic files containing email communications to and from the email address, as well as the phone number 518-650-XXXX, which has been previously identified as belonging to Eberlein. The emails also show that Eberlein was associated with this email account. For example:

- a. An email dated December 10, 2009 was sent from xxxxxxxdadoftwoyearold@yahoo.com to acexxx@aol.com, an email address that has been identified as belonging to Eberlein;
- b. An email dated August 4, 2015 from xxxxxxxdadoftwoyearold@yahoo.com to xxxxxxxdadoftwoyearold@yahoo.com contained the file: **03.jpg**, which is a still image of a prepubescent female, approximately two to four years of age with an adult male putting his penis in her mouth. The same file, titled **03.jpg**, was located on the ASUS laptop seized from Eberlein's with a last access date of August 4, 2015; and
- c. An email dated February 23, 2016 sent from xxxxxxxdadoftwoyearold@yahoo.com to xxxxxxxdadoftwoyearold@yahoo.com contained the file: **j0CAF54.gif**, which is a moving image of a prepubescent female approximately three to five years of age laying completely nude on an adult male's lap while the man rubs the child's genitals. The body of the email included, "C:\UseC:\Users\chris\Desktop\j0CAF54.gifrs\chris\Desktop\j0CAF54.gif." The user profile: Users\chris\Desktop was located on the ASUS laptop seized from Eberlein's residence.

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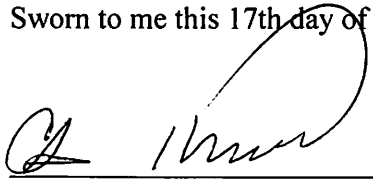
Conclusion

16. Based upon the above information, I respectfully submit that there is probable cause to believe that on October 25, 2019, Christopher Eberlein knowingly possessed child pornography in violation of Title 18 United States Code, Section 2252A(a)(5)(B).



Brandon J. Hudson, Task Force Officer
Federal Bureau of Investigation

Sworn to me this 17th day of December, 2019.



Hon. Christian F. Hummel
United States Magistrate Judge